

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.12618 of 2006

Date : 22-10-2007

Between :

R.Lakshmi Narayana

and others

..

Petitioners

and

The Government of Andhra Pradesh,

Represented by its Secretary,

Civil Supplies Department,

Secretariat, Hyderabad

and others

..

Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.12618 of 2006

ORDER:

1. This Court issued *rule nisi* on 23-6-2006 and made interim order in W.P.M.P.No.15671/2006 to the effect : *"So long as the licence granted to the petitioners is subsisting and if there are no other legal hurdles, the respondents shall supply kerosene to the petitioners, during the pendency of the Writ Petition"*.

2. The Writ Petition is filed for a Writ of mandamus or any other appropriate writ, order or direction declaring the action of the respondents in not supplying the petroleum products to the petitioners without following the due process of law as arbitrary, illegal and unconstitutional and direct the respondents to convert the petitioners/retail dealers as Fair Price Shop Dealers in accordance with Circular No.PDS.II(3)/2847/2005 dated 19-3-2005 issued by the 2nd respondent and to pass such other suitable orders.

3. It is stated that the petitioners were appointed as retail kerosene dealers of Kuppam and Gudupalle villages in Chittoor District in the year 1986. It is also stated that the petitioners 1 to 6 were appointed as retail kerosene dealers with Licence Nos.8/86, 14/86, 27/86, 30/85, 9/86, 1/98 and the petitioners 7 to 9 were appointed as kerosene dealers with Nos.1/87, 25/85 and 13/88 respectively. It is also further stated that the petitioners' licences have been renewed by the respondents from time to time and as on today their licences are subsisting and the same are valid till 30-12-2006 and they had been distributing the kerosene to the utmost satisfaction of the authorities since their appointment as retailers and so far there is no complaint against the petitioners from any quarter. It is also further stated that since long time, the kerosene retail dealer/hawkers had been making representations before the Government and the authorities concerned had been requesting for conversion of the retail kerosene dealers at Fair Price Shop Dealers against the existing vacancies of the Fair Price Shop Dealers. In pursuance of the said representations, the Government had taken a policy decision for conversion of the existing nominated retailers as Fair Price Shop Dealers in a phased manner to make

available all essential commodities to the card holders under one roof. Accordingly the 1st defendant issued Circular No.PDS.II(3)/2847/05 on 19-3-2005 directing all the Collectors/Chief Rationing Officer, Hyderabad to take necessary steps for conversion of the existing nominated retailers as Fair Price Shop Dealers. It is also further stated that subsequent to the Circular dated 19-3-2005 issued by the 2nd respondent, the A.P. Kerosene Retail Sellers Federation had also made a representation to the 2nd respondent requesting him to implement the said Circular without stipulating any conditions and accordingly the 2nd respondent issued another proceedings dated 22-7-2005 bearing CCS Ref.No.N5/10427/2005 directing all the Collectors/Chief Rationing Officer, Hyderabad to examine the cases of the retailers. It is also further stated that in spite of the issuance of the Circular by the 2nd respondent and the respondents 3 and 4 had not chosen to implement the same and as such the petitioners submitted representation to the respondents 3 and 4 and also a representation had been submitted through Association to the respondents requesting them to consider the cases of the Kerosene Retail Dealers for conversion as Fair Price Shop Dealers and to allot the existing vacant shops viz., bifurcated vacancies of Fair

Price Shops, temporary Fair Price Shops and deceased Fair Price Shops and other merged/clubbed shops to the nominated kerosene retailer as per the Circular issued by the 2nd respondent. It is also further stated that it is relevant to mention that though the Circular had been issued by the 2nd respondent on 19-3-2005, till today the same had not been implemented. On the other hand, the authorities are making temporary appointments of Fair Price Shops at the instance of political leaders and in view of the above the purpose of the Circular is defeated. It is also reliably learnt that subsequent to the issuance of the Circular by the 1st respondent about more than 200 Fair Price Shops were appointed despite the petitioners and their Association had submitted representations before the authorities for implementation of the Circular issued by the 2nd respondent. It is further stated that the Circular issued by the 2nd respondent is being implemented in all the Districts of A.P. State except Chittoor District which is arbitrary and infraction of Article 14 of the Constitution of India. It is also further stated that the respondents had been supplying the commodity to the petitioners since their appointment every month till May 2006. When the petitioners went to lift the commodity as usual for the month of June, the respondents 5 and 6 refused to supply

the commodity. When all the petitioners questioned, the respondents replied that thereafter no commodity will be supplied to the petitioners and directed them to approach the higher authorities for further information. Immediately the petitioners approached the respondents and made representations requesting supply of the commodity by converting their retail licence to Fair Price Shop Dealer as per the Circular issued by the 2nd respondent. The respondents 3 to 5 assured the petitioners that their cases will be considered and they will direct the officers to supply the commodity, but neither the officers of the respondents nor the respondents 5 and 6 supplied the commodity nor issued any explanation for not supplying the commodity. The petitioners categorically brought to the notices of the respondents that they were appointed as Retail Kerosene Dealers long back and the 2nd respondent issued a Circular for conversion of the Retail Dealers as Fair Price Shop Dealers and the subsisting of licence till 30-8-2006. The respondents without considering all these aspects, refused to supply the commodity without issuing any notices and without explaining any reasons. The action of the respondents in not continuing the petitioners as Retail Dealers without issuing any notice and without passing any orders is in utter violation of principles of natural

justice and as the licences are valid till 30-12-2006, the petitioners are entitled to lift the Kerosene. Further it is stated that the action of the respondents in not responding to the representations made by the petitioners for supply of the commodity from June onwards and converting as Fair Price Shop Dealers is illegal, improper and unsustainable. The respondents without following the rules prescribed in the law had suddenly stopped supplying kerosene to the petitioners. It is further stated that before taking arbitrary action as against any of the petitioners, the respondents should have issued the notices. In such circumstances, the petitioners approached this Court praying for the relief already specified supra.

4. In the light of the facts and circumstances and also in view of the Circular referred to supra, this Court is of the considered opinion that the Writ Petition be disposed of directing the 3rd respondent to consider the cases of the petitioners in accordance with the Circular as and when vacancies arise in accordance with the Control Orders and the G.Os. governing the field.

5. The Writ Petition is accordingly disposed of. No order as to costs.

Justice P.S.Narayana

Date : 22-10-2007

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